IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Yasushi Fujinami
Serial No.	: 09/920,104
For	: IMAGE PROCESSING APPARATUS AND IMAGE PROCESSING METHOD AS WELL AS RECORDING MEDIUM
Filed	: August 1, 2001
Examiner	: Shibru, Helen
Art Unit	: 2621
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CERTIFICATE OF ELECTRONIC FILING

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Susan Powell
(Name of person signing transmittal)

Susan Powell
Signature

November 15, 2007
Date of Signature

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Claims 1-33 are pending in this application. Claims 1-33 are rejected in the Final Office Action mailed, September 13, 2007.

In the Final Rejection, the combination of European Published Application EP 0 933 185 (Lownes) plus U.S. Patent 5,412,418 (Nishimura) plus what the Examiner described as "Applicant's related art, was relied upon to reject the claims." For the purpose of the present

Request for Review, Applicant's representative focuses on the cumulative teachings of the combination of Lownes, Nisihmura and Applicant's description of "related art."

Applicant respectfully requests the Panel consider the following argument:

That, contrary to the conclusion set out in the Final Rejection, Applicant's "related art" does not describe a temporary store at the reception apparatus to store the played back image data that is transmitted to the reception apparatus and to repetitively read out the image data stored at the reception apparatus' temporary store while the playback and transmission sections are stopped.

As a secondary argument, Applicant requests the Panel consider whether that which is described as "related art" in Applicant's specification constitutes "prior art" within the meaning of 35 USC 102 to be used as a prior art reference to reject a claim.

The purpose of the feature of repetitively reading out temporarily stored data at the reception apparatus is to permit the bandwidth of the connection to the reception apparatus (e.g. a IEEE 1394 connection) to be used effectively during a pause in the operation of the playback section of the transmission apparatus at the other end of the connection. Heretofore, if there was a pause operation at the transmission apparatus, data nevertheless would be sent repetitively from the transmission apparatus to the reception apparatus so that the display at the reception apparatus would operate properly to provide a continuous display of image data or audio/video contents even though there was a pause at the transmission apparatus. Consequently, the bandwidth of the IEEE 1394 connection between the transmission and reception apparatuses was used to transmit the redundant repetitive data. The present invention permits more efficient and productive use of that bandwidth.

Claim 1 is representative of the rejected claims and recites, inter alia,

> "a temporary store [at the reception apparatus] to temporarily store the played back image data transmitted thereto [from the transmission section] ... wherein the image data stored in said temporary store is repetitively read out while said playback and transmission sections are stopped."

The Final Office Action implicitly agrees that Lownes and Nishimura both fail to disclose or even suggest the use of a temporary store at reception apparatus to temporarily store and then repetitively read out image data transmitted thereto from a transmission section when the transmission and playback sections are stopped, because the Office Action relies upon Applicant's "related art" for this feature. The Final Office Action refers to paragraphs [0029] and [0056] of Applicant's published application as teaching this feature. These paragraphs are reproduced below:

> [0029] After the pause mode is entered, the mechanism deck 11 stops feeding of the video tape and supplies image data of the same frame obtained by repetitively scanning the same portion of the video tape to the signal processing circuit 12. The signal processing circuit 12 processes the video data from the mechanism deck 11 to produce normal image data of the NTSC system and supplies the image data to the interface circuit 13 and also to the display 14 so that the image data are displayed on the display 14. The interface circuit 13 transmits the image data from the signal processing circuit 12 to the camcorder 2 through the IEEE 1394 cable 3.
>
> [0056] As described above, in the AV systems described above, even if a pause instruction is issued, image data of the same frame are transmitted repetitively through the IEEE 1394 cable 3. In other words, also when a pause mode is established, image data are transmitted occupying a transmission bandwidth similar to that in normal playback. More particularly, where the image data to be transmitted are data, for example, of the NTSC system, they are transmitted occupying a transmission bandwidth corresponding to 29.97 frames/sec.

As is clear from the above paragraphs, when mechanism deck 11 of transmitter device 1 is in the pause mode, deck 11 repeatedly scans the same frame on the video tape and that frame is repeatedly transmitted from device 1 to reception device 2 over line 3. This, of course, is the very problem that is addressed and overcome by Applicant's claimed invention. There is no temporary store at reception device 2. Consequently, there is no temporary store at the reception

device which repetitively reads out image data transmitted from device 1 when device 1 enters the pause mode.

As mentioned in paragraph [0056] of Applicant's specification, in Applicant's "related art," "even if a pause instruction is issued, image data of the same frame are transmitted repetitively through the IEEE 1394 cable" so that the same bandwidth of the IEEE 1394 connection as in normal playback is occupied. Again, this is the very problem that Applicant addresses and solves by using the temporary store at the reception apparatus, when the transmitter is paused, to repetitively play back the image data that had been transmitted; which means that in the pause mode, there is no need for the transmitter to repeatedly transmit the same image data, which is the case described in paragraph [0029] of Applicant's specification. Therefore, even if Applicant's "related art" is relied upon to reject Applicant's claims, which Applicant contends is not proper, as discussed below, there is no teaching or suggestion in such "related art" to suggest the claimed use of a temporary store at the reception apparatus to permit the bandwidth of the connection between transmitter and receiver to be used more efficiently.

Turning to Applicant's secondary argument, it is respectfully submitted that the discussion of "related art" in Applicant's specification, as identified in the Final Office Action, is not an admission of "prior art" within the meaning of 35 USC 102. Prior art consists of printed publications or patents describing an applicant's claimed invention and published before the applicant made his invention, or published more than one year before the applicant filed his patent application, or was known to others in the United States before the applicant made his invention, or was on sale in the United States more than one year before the applicant filed his patent application. See 35 USC 102(a) and (b). Applicant's present specification describes "related art" that doe not necessarily fit the statutory definition of "prior art." Applicant's

specification does not identify a printed publication or patent that describes such "related art." Applicant's specification does not admit that such "related art" was known in the U.S. before Applicant made his invention, nor does applicant's specification admit that such "related art" was on sale in the U.S. more than one year before the effective filing date of this application. It is conceivable that the "related art" described in the instant specification was known to others in Japan (not necessarily the United States), such as Applicant's co-workers. That which is known to others outside the United States does not qualify as statutory "prior art." Therefore, for this additional reason, the rejection set out in the final Office Action is improper and should be withdrawn.

All of the independent claims in the present application recite the same or similar feature of claim 1, discussed above. Since the prior art relied upon in the Final Office Action (even if the "related art" is considered) fails to teach this feature, it follows that all of the independent claims are patentable. It further follows that, since those claims that depend from the independent claims include the very same features recited by the claim from which those dependent claims depend, the dependent claims likewise are patentable.

Accordingly, this Panel is respectfully requested to reverse the Final Office Action and to find the claims of the present application to be patentably distinct over the prior art of record.

Respectfully submitted,
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